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HOUSE BILL 267

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO HEALTH CARE; CREATING THE HEALTH CARE AUTHORITY;
CREATING A BOARD OF DIRECTORS FOR THE HEALTH CARE AUTHORITY;
PROVIDING FOR DUTIES OF THE HEALTH CARE AUTHORITY; ENACTING AND
REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Health Care Authority Act".

Section 2. DEFINITIONS.--As used in the Health Care
Authority Act:

A. "authority" means the health care authority;

B. "board" means the board of directors of the
authority;

C. "health care services" means services rendered
by a licensed provider, including:

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1 (1) the furnishing to any individual of
2 medical, behavioral health, dental, pharmaceutical or
3 optometric care;

4 (2) hospitalization or long-term care; and

5 (3) the furnishing to any person of services
6 for the purpose of preventing, alleviating, curing or healing
7 human physical or mental illness or injury; and

8 D. "health coverage" means a system of financing
9 health care services, including a hospital or medical
10 expense-incurred policy; a nonprofit health care plan service
11 contract; a health maintenance organization subscriber
12 contract; a short-term, accident, fixed indemnity or specified
13 disease policy; a disability income contract; limited health
14 benefit insurance; credit health insurance; employer or group
15 self-insured arrangements; and public or other governmental
16 programs; provided, however that "health coverage" does not
17 include coverage issued pursuant to provisions of the Workers'
18 Compensation Act or similar law, automobile medical payment
19 insurance or provisions by which benefits are payable with or
20 without regard to fault and are required by law to be contained
21 in any liability insurance policy.

22 Section 3. HEALTH CARE AUTHORITY--CREATION--BOARD OF
23 DIRECTORS.--

24 A. The "health care authority" is created as an
25 adjunct agency pursuant to Section 9-1-6 NMSA 1978.

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1 B. The board of directors of the authority shall
2 consist of eleven voting members and two nonvoting members as
3 follows:

4 (1) five voting members appointed by the
5 governor; provided, however, that each appointed board member
6 shall have at least three years' experience in at least one of
7 the following areas; and provided further that at least one
8 board member shall be a licensed physician pursuant to the
9 Medical Practice Act:

10 (a) executive-level experience in
11 management or finance in a business not related to health care;

12 (b) executive-level experience in a
13 business not related to health care that employs ten or fewer
14 individuals;

15 (c) executive-level experience in a
16 business not related to health care that employs eleven or more
17 individuals;

18 (d) experience in health care finance,
19 economics or actuarial analysis; and

20 (e) professional experience in the
21 federal Indian health service or a tribal health delivery
22 system; provided that the member is an American Indian;

23 (2) five voting members appointed by the New
24 Mexico legislative council, one from each of the five public
25 regulation commission districts; provided, however, that each

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1 appointed board member shall have at least three years'
2 experience in at least one of the following areas; and provided
3 further that at least one board member shall be a licensed
4 nurse having a graduate-level education in nursing:

5 (a) experience in the field of health or
6 human services consumer advocacy;

7 (b) experience related to health policy;

8 (c) experience related to health care
9 delivery;

10 (d) experience in labor organization and
11 advocacy; and

12 (e) experience in public health;

13 (3) the superintendent of insurance as a
14 voting member;

15 (4) the secretary of health as a nonvoting
16 member; provided, however, that the secretary shall not preside
17 over the board at any time or attend meetings in executive
18 session; and

19 (5) the secretary of human services as a
20 nonvoting member; provided, however, that the secretary shall
21 not preside over the board at any time or attend meetings in
22 executive session.

23 C. The voting members appointed to the board shall
24 have terms chosen by lot as follows: three members shall serve
25 two-year terms; three members shall serve three-year terms; and

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1 four members shall serve four-year terms. Thereafter,
2 appointed members shall serve four-year terms. An appointed
3 member shall serve until the member's successor is appointed,
4 but in no case shall the appointed member serve longer than an
5 additional twelve months. An appointed member shall not serve
6 more than two terms.

7 D. A vacancy on the board shall be filled by
8 appointment by the original appointing authority for the
9 remainder of the unexpired term.

10 E. A majority of the eleven voting members shall
11 constitute a quorum. Decisions by the board shall require a
12 majority vote of the eleven voting members.

13 F. The board may allow members' participation in
14 meetings by any electronic medium.

15 G. At its first meeting and every two years
16 thereafter, the board shall elect in open session a chair and
17 vice chair from any of the appointed members. A chair shall
18 serve no more than two terms as chair. A vice chair shall
19 serve no more than two terms as vice chair.

20 H. An appointed board member or any member of an
21 appointed board member's immediate family or household shall
22 not have any income derived from current or active employment,
23 contract or consultation with the private health care delivery,
24 financing or coverage sector while serving on the board and for
25 twelve months preceding appointment to the board; provided,

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1 however, that this subsection shall not apply to the licensed
2 physician and licensed nurse appointed pursuant to Subsection B
3 of this section.

4 I. The board may only remove a board member from
5 the board for lack of attendance, neglect of duty or
6 malfeasance in office and in accordance with policies adopted
7 by the board.

8 J. Board members and members of the advisory
9 councils may receive per diem and mileage in accordance with
10 the Per Diem and Mileage Act.

11 K. The board shall meet on a regular basis and no
12 fewer than ten times before September 2010. The board shall
13 comply with all statutes and rules applicable to state agencies
14 and public boards; provided, however, that the authority shall
15 not promulgate any rule unless, and only to the extent,
16 specifically provided that power by the legislature.

17 L. The board shall create the following advisory
18 councils, and may create other ad hoc councils, to provide the
19 board with analyses and expert policy and program
20 recommendations. The board shall appoint members with
21 demonstrated experience and expertise in the area for which the
22 council is responsible, and each council shall be composed of
23 no more than fifteen members. A member of an advisory council
24 shall serve at the pleasure of the board, but in no case shall
25 a member of an advisory council remain on a council for more

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1 than four years. The authority shall provide staff support for
2 the work of the advisory councils and any ad hoc councils
3 created by the authority. At least once each calendar quarter,
4 each council shall present its findings and make
5 recommendations on issues requested by the board. The councils
6 shall include:

- 7 (1) a delivery system policy council;
- 8 (2) a cost containment and finance council;
- 9 (3) a benefits and services council;
- 10 (4) a federal issues review council; and
- 11 (5) a health disparities council.

12 M. Prior to any action by the board, the findings
13 and recommendations of an advisory council shall be open for
14 public comment for a period of no less than thirty days. If an
15 emergency requires action in a time frame that will not
16 accommodate the period for public comment, any action of the
17 board shall be temporary until such time as the public comment
18 period can occur.

19 N. The authority may request staff assistance from
20 any state agency.

21 Section 4. HEALTH CARE AUTHORITY--DUTIES.--The authority
22 shall, by September 1, 2010 and after receiving recommendations
23 from the advisory councils, develop and present to the governor
24 and the legislature a comprehensive action plan for accessible
25 and affordable health care for all people living in New Mexico.

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1 The plan shall include the following:

2 A. a sustainable methodology for the financing of a
3 health care system that incorporates strategies from the public
4 and private sectors;

5 B. strategies for health coverage or insurance
6 reform that include guaranteed issue, community rating and
7 measures that increase portability;

8 C. the defining of a set of essential health care
9 services;

10 D. structural reforms that would improve efficiency
11 in public health coverage programs, including consideration of
12 the feasibility of administrative consolidation of pools and
13 group purchasing of durable medical equipment, health care
14 supplies and pharmaceuticals;

15 E. assessment of the impact of state or federal
16 laws and rules and any state or federal changes in the
17 structure of health coverage or policies;

18 F. statutory and regulatory initiatives necessary
19 to provide cost-effective health care services, including:

20 (1) access to information that would enable
21 providers, consumers and purchasers to evaluate cost data
22 fairly, including contractual terms such as reimbursement
23 rates, provider charges and health benefit plans; and

24 (2) a statewide uniform health care provider
25 credentialing process;

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1 G. restructuring of the current health care
2 delivery system, including:

3 (1) evidence-based approaches to providing
4 acute medical care, behavioral health care, chronic medical
5 care and disease management, preventive care and wellness,
6 public health and patient education;

7 (2) a system that realigns provider and
8 insurer incentives, reduces duplication, enhances primary care
9 and focuses on evidence-based long-term health improvement; and

10 (3) accountability by providers and health
11 coverage plans for health outcomes;

12 H. recommendations for setting of affordability
13 guidelines for individuals and families, including subsidies,
14 co-payments, premiums and other patient cost sharing or out-of-
15 pocket expenditures for essential health services;

16 I. strategies to reduce racial and ethnic health
17 care disparities and identify underserved populations, taking
18 into account the role of American Indian health systems and
19 financing; and

20 J. other information requested by the board or
21 deemed necessary by the authority.

22 Section 5. EXECUTIVE DIRECTOR.--The board shall appoint
23 an executive director of the authority. The executive director
24 shall carry on the day-to-day operations of the authority. The
25 executive director shall have at least seven years of

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1 experience in health care delivery, policy, management or
2 financing. The executive director is exempt from the Personnel
3 Act. The executive director shall employ or contract with
4 those persons necessary to administer and implement the powers
5 and duties of the authority.

6 Section 6. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
7 The health care authority is terminated July 1, 2014 pursuant
8 to the Sunset Act. The authority shall continue to operate
9 according to the provisions of the Health Care Authority Act
10 until July 1, 2015. Effective July 1, 2016, the Health Care
11 Authority Act is repealed.

12 Section 7. TEMPORARY PROVISION--NEW MEXICO HEALTH POLICY
13 COMMISSION--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND
14 REFERENCES IN LAW.--On July 1, 2009:

15 A. all personnel, appropriations, money, records,
16 equipment, legislative requests, supplies and other property of
17 the New Mexico health policy commission shall be transferred to
18 the health care authority;

19 B. all contracts of the New Mexico health policy
20 commission shall be binding and effective on the health care
21 authority;

22 C. all references in law to the New Mexico health
23 policy commission shall be deemed to be references to the
24 health care authority; and

25 D. the executive director of the New Mexico health

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1 policy commission shall be appointed as interim director of the
2 health care authority until the board of directors of the
3 health care authority appoints an executive director.

4 Section 8. REPEAL.--Section 9-7-11.2 NMSA 1978 (being
5 Laws 1991, Chapter 139, Section 2, as amended) is repealed
6 effective July 1, 2009.

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